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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,227	11/20/2001	Gianluigi Gamberini	377/9-1612	9689

7590 05/23/2003

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EXAMINER

TRAN, LOUIS B

ART UNIT PAPER NUMBER

3721

DATE MAILED: 05/23/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

EC

Office Action Summary	Application No. 09/989,227	Applicant(s) GAMBERINI, GIANLUIGI	
	Examiner Louis B Tran	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 5-9 and 11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 10 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Species VI, claims 1-5, 10 and 12 in Paper No. 5 is acknowledged. The traversal is on the ground(s) that all species can be examined in a single application. This is not found persuasive because of the recognized divergent subject matter.

Moreover, applicant has incorrectly selected claim 5 as being drawn to the elected invention of Figures 8 and 9. Claim 5 requires a V shaped engaging surface clearly depicted in Figure 2 drawn to a non-elected Species I and not shown anywhere in elected Species VI, Figures 8 and 9.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 5-9 and 11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 5.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-4, 10, 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "and the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "and the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4, 10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Dall'Omo (5,465,550) .

With respect to claim 1, Dall'Omo shows a conveying device for machines for packaging articles in rolls, the conveying device including conveying means 3 moved stepwise along an endless path, in a forward movement direction, a series of spaced out carriages 21 fastened to said conveying means and disposed in pairs, each pair of said pairs of said adjacent carriages defining holding seats for respective groups of articles 2 to be packaged in a single pack with a sheet of a wrapping material 22, each carriage of said carriages including gliding means 4 fastened to said conveying means crosswise to said forward movement direction of said conveying means, slide means 13 slidably mounted on said gliding means 4 and located in a selected position along said gliding means of said carriages, a series of pushing prongs extending perpendicular to said conveying means, from said slide means, means for adjusting said pushing prongs

on said carriages by operating said slide means to move to a new selected position along said gliding means seen in Figures 2 and 3.

With respect to claim 2, Dall'Omo shows a device wherein the number of said pushing prongs on each carriage is the maximum possible, in relation to the dimensions of the groups of articles to be packaged in a pack seen in Figure 1.

With respect to claim 3, Dall'Omo shows a device wherein said slide means are kept by friction on said gliding means by elastic gripping means as in column 3, lines 67.

With respect to claim 4, Dall'Omo shows a device wherein said means for adjusting the position of the pushing prongs engaged with respective longitudinal grooves made on slide means 13 seen in Figure 2.

With respect to claim 10, Dall'Omo shows wherein said gliding means 4 include a pair of stems, which are arranged crosswise to said forward movement direction of the conveying means and having opposite ends fastened to said carriages, said carriages sliding on guiding means following a close loop path.

With respect to claim 12 Dall'Omo shows wherein said means for adjusting the position of said slide means include endless transmission means, which are trained around a close loop path and move crosswise to said forward movement direction, said transmission means being alternatively fastened and in engagement with corresponding slide means of subsequent carriages facing each other seen in Figure 1.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are Dall'Omo (5,287,679), Cinotti, Nordstrom (096), Johnson, Cassoli et al., Close, Nordstrom (549), and cassoli.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis B Tran whose telephone number is 703-305-0611. The examiner can normally be reached on 8AM-6PM Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on 703-308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

lbt
April 30, 2003



**EUGENE KIM
PRIMARY EXAMINER**